

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL T. WILLIAMS,

Plaintiff,

v.

MICHAEL MINEV, *et al.*,

Defendants.

Case No. 3:22-cv-00069-RCJ-CLB

ORDER

Plaintiff Michael T. Williams brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Lovelock Correctional Center (“LCC”). (ECF No. 4). On December 27, 2022, this Court ordered Williams to file an amended complaint within 30 days. (ECF No. 3). The Court warned Williams that the action could be dismissed if he failed to file an amended complaint by that deadline. (*Id.* at 13). After receiving mail returned as undeliverable, the Court issued a change of address order and sent Williams a courtesy copy of the screening order to Williams at his new address. (ECF No. 6). Although Williams filed a change of address notification, he did not file an amended complaint, move for an extension, or otherwise respond to the screening order. (See ECF No. 7).

I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s

1 interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;
2 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
3 cases on their merits; and (5) the availability of less drastic alternatives. See *In re*
4 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
5 *Malone*, 833 F.2d at 130).

6 The first two factors, the public's interest in expeditiously resolving this litigation
7 and the Court's interest in managing its docket, weigh in favor of dismissing Williams's
8 claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal
9 because a presumption of injury arises from the occurrence of unreasonable delay in filing
10 a pleading ordered by the court or prosecuting an action. See *Anderson v. Air West*, 542
11 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of
12 cases on their merits—is greatly outweighed by the factors favoring dismissal.

13 The fifth factor requires the Court to consider whether less drastic alternatives can
14 be used to correct the party's failure that brought about the Court's need to consider
15 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
16 that considering less drastic alternatives *before* the party has disobeyed a court order
17 does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
18 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
19 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court's
20 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
21 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
22 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
23 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
24 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and
25 unless Williams files an amended complaint, the only alternative is to enter a second order
26 setting another deadline. But the reality of repeating an ignored order is that it often only
27 delays the inevitable and squanders the Court's finite resources. The circumstances here
28 do not indicate that this case will be an exception: there is no hint that Williams needs

1 additional time or evidence that he did not receive the Court's screening order at his new
2 address. Setting another deadline is not a meaningful alternative given these
3 circumstances. So the fifth factor favors dismissal.

4 **II. CONCLUSION**

5 Having thoroughly considered these dismissal factors, the Court finds that they
6 weigh in favor of dismissal. It is therefore ordered that this action is dismissed without
7 prejudice based on Williams's failure to file an amended complaint in compliance with this
8 Court's December 27, 2022, order and for failure to state a claim. The Clerk of Court is
9 directed to enter judgment accordingly and close this case. No other documents may be
10 filed in this now-closed case. If Williams wishes to pursue his claims, he must file a
11 complaint in a new case.

12 It is further ordered that Williams's application to proceed *in forma pauperis* (ECF
13 No. 1) without having to prepay the full filing fee is **granted**. Williams will **not** be required
14 to pay an initial installment fee. Nevertheless, the full filing fee will still be due, pursuant
15 to 28 U.S.C. § 1915, as amended by the Prison Litigation Reform Act.

16 It is further ordered that, pursuant to 28 U.S.C. § 1915, as amended by the Prison
17 Litigation Reform Act, the Nevada Department of Corrections will forward payments from
18 the account of **Michael T. Williams, # 65832** to the Clerk of the United States District
19 Court, District of Nevada, 20% of the preceding month's deposits (in months that the
20 account exceeds \$10.00) until the full \$350 filing fee has been paid for this action. The
21 Clerk of the Court will send a copy of this order to the Finance Division of the Clerk's
22 Office. The Clerk will send a copy of this order to the attention of **Chief of Inmate**
23 **Services for the Nevada Department of Corrections**, P.O. Box 7011, Carson City, NV
24 89702.

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1 It is further ordered that, even though this action is dismissed, and is otherwise
2 unsuccessful, the full filing fee will still be due, pursuant to 28 U.S.C. §1915, as amended
3 by the Prison Litigation Reform Act.

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5 DATED THIS 6th day of February 2023.

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8 ROBERT C. JONES
9 UNITED STATES DISTRICT JUDGE
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